# STATE OF ARIZONA

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DEPARTMENT OF INSURANCE

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In the Matter of the Release of Statutory Deposit of: THE BANK OF NEW YORK LIFE INSURANCE	) Docket No. 97A-017-INS
COMPANY, INC. (NAIC No. 91073),	) ORDER
Petitioner.	) ) )

On March 24, 1997, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal, submitted "Recommended Decision of Administrative Law Judge" ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters the following order:

- 1. The recommended findings of fact and conclusions of law are adopted.
- 2. The statutory deposit in the sum of \$100,000.00 shall be released to the Petitioner after the Department has received the following: (a) payment of \$161.92 to the Insurance Examiners' Revolving Fund; and (b) a fully executed Form E126 (Notice of Trust Deposit Release). The statutory deposit will not be released until the Department receives a fully executed copy of the official State Treasurer Release Receipt.

## NOTIFICATION OF RIGHTS

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2	The aggrieved party may request a rehearing with respect to this Order by filing a written
3	petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth
4	the basis for such relief pursuant to A.A.C. R20-6-114(B).
5	The final decision of the Director may be appealed to the Superior Court of Maricopa
6	County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal must notify the Office of
7	Administrative Hearings of the appeal within ten days after filing the complaint commencing the appeal,
8	pursuant to A.R.S. §41-1092.10.
9	DATED this 21 day of March, 1997
10	
11	John A. Greene
12	Director of Insurance
13	A copy of the foregoing mailed this אַלְבּבּם day of March, 1997
14	Mary Butterfield, Assistant Director
15	Catherine O'Neil, Assistant Director Gary Torticill, Assistant Director
16	Deloris Williamson, Assistant Director Scott Greenberg, Business Administrator
17	Department of Insurance 2910 N. 44th Street, Suite 210
18	Phoenix, AZ 85018
19	Office of Administrative Hearings 1700 W. Washington, Suite 602
20	Phoenix, AZ 85007
21	Thomas E. Haney 1421 E. Thomas Road
22	Phoenix, AZ 85014

#### IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Release of Statutory Deposit of THE BANK OF NEW YORK LIFE INSURANCE COMPANY, INC.

(NAIC No. 91073),

Petitioner.

No. 97A-017-INS

RECOMMENDED DECISION
OF ADMINISTRATIVE
LAW JUDGE

HEARING: March 18, 1997

APPEARANCES: Thomas E. Haney Esq. for the Petitioner and Kurt Regner for the Arizona Department of Insurance

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

On March 18, 1997, 1996, a hearing took place to consider the application of The Bank of New York Life Insurance Company, Inc. (the "Petitioner"),that was filed with the Arizona Department of Insurance (the "Department") for the release of its statutory deposit pursuant to A.R.S. §§20-581, 20-588 and A.A.C. R20-6-303.

Based upon the entire record in this matter, the following Recommended Findings of Fact, Conclusions of Law and Recommended Order are made:

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

- 1. The Petitioner has filed its certified financial statement as of December 31, 1996 and a Plan of Extinguishment of Liabilitieswith the Department.
- 2. At least 10 business days before the hearing of this matter, Petitioner gave special notice to creditors and policyholders of the Petitioner, setting forth the date, place, nature and purpose of the hearing, as evidenced by the affidavit of publication.

Office of Administrative Hearings 1700 West Washington, Suite 602 Phoenix, Arizona 85007 (602) 542-9826

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Petitioner represented that it does not have any known creditors

- 3. The Petitioner has a \$100,000.00 statutory deposit with the Department.
- 4. The Petitioner has complied with the provisions of A.R.S. §20-588 and A.A.C. R20-6-303 relating to the release of its \$100,000.00 statutory deposit.
- 5. Petitioner currently owes \$161.92 to the Insurance Examiners' Revolving Fund ("IERF").

### **RECOMMENDED ORDER**

The undersigned Administrative Law Judge recommends that:

The Petitioner is entitled to the release of its statutory deposit in the sum of \$100,000.00 and that the statutory deposit shall be released to the Petitioner after the Department has received the following: (a) payment of \$161.92 to the IERF; and (b) a fully executed Form E126 (Notice of Trust Deposit Release). The statutory deposit cannot be released until the Department receives a fully executed copy of the official State Treasurer Release Receipt.

Done this day, March 24, 1997.

Lewis D. Kowal

Administrative Law Judge

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Original transmitted by mail this

25 day of March, 1997, to:

John A. Greene Acting Director

ATTN: Curvey Burton

Department of Insurance

2910 North 44th Street, #210

Phoenix, AZ 85018-7256

By Shear Ruhl